

VZCZCXRO0655  
OO RUEHROV  
DE RUEHJM #1795/01 2391009  
ZNY CCCCC ZZH  
O 271009Z AUG 07  
FM AMCONSUL JERUSALEM  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 8822  
INFO RUEHKK/ARAB ISRAELI COLLECTIVE PRIORITY  
RUEHBS/USEU BRUSSELS PRIORITY  
RHEHNSC/NSC WASHDC PRIORITY  
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 JERUSALEM 001795

SIPDIS

SIPDIS

NEA FOR FRONT OFFICE; NEA/IPA FOR  
GOLDBERGER/SHAMPAINE/BELGRADE; L FOR SCHWARTZ/DOLAN/GROSH;  
NSC FOR ABRAMS/SINGH; TREASURY FOR  
HARRIS/LOEFFLER/NUGENT/HIRSON; BRUSSELS FOR LERNER

E.O. 12958: DECL: 08/19/2017

TAGS: [EFIN](#) [EAID](#) [ECON](#) [KWBG](#) [IS](#) [PTER](#) [KPAL](#) [EINV](#)

SUBJECT: FAYYAD SAYS TERROR LITIGATION POSES "EXISTENTIAL  
THREAT" TO PA

REF: JERUSALEM 1612

Classified By: Acting Principal Officer Thomas Duffy for reasons 1.4 b,  
d.

¶1. (C) Summary. Palestinian Authority (PA) Prime Minister Salam Fayyad told a visiting interagency team that the suits brought against the PA in the U.S. and Israel pose an "existential threat" to the Palestinian cause. Fayyad urged the State Department to provide a Statement of Interest in support of his efforts to get two default judgments vacated, though acknowledging that at this point having the judgments vacated would be an uphill battle. He said that a U.S. court decision to hand control of the Palestine Investment Fund (PIF) to plaintiffs in one case could do lasting damage to the PA. He was less worried about assets currently exposed in the U.S., and instead focused on cash flows through Israel, the ability of his Government and private sector to conduct business and the threat posed by misuse of the PIF. Fayyad admitted that he did not yet have a team within his Ministry of Justice knowledgeable on these issues; for now he was following them personally with the assistance of a consultant and the PA's counsel in the U.S. and Israel. He also said that the PA needed to engage more vigorously with the GOI on litigation issues, observed that GOI action to wall off PA assets would be very helpful, and noted that he thought "official Israel" understood the importance of the issue. End Summary.

¶2. (SBU) PA Prime Minister Fayyad met with Department of State and Department of Justice lawyers on August 23 in Ramallah to discuss cases in the U.S. brought against the PA and the PLO for involvement in terrorist acts against American citizens. Fayyad was accompanied by Minister of Justice Ali Khashan. USG participants included Attorney Adviser JoAnn Dolan, Deputy Assistant Legal Adviser Lisa Grosh, and Justice Department Senior Trial Counsel Rupa Bhattacharyya.

¶3. (C) Fayyad expressed appreciation for USG efforts in these cases. He candidly said that the previous PA approach to these cases was foolhardy and had left his government with a significant challenge. He admitted that he did not have a team yet within the PA to work the issue, and was forced to rely on outside consultants and the PA's legal teams in the U.S. and Israel. (Note: While Fayyad has command of all the details of the litigation, he had to brief his Justice Minister - who was clearly new to the issue - on the basics of the cases at the beginning of the meeting.) Fayyad said that the judgments in the U.S. had "vastly complicated" PA

efforts to maintain its Pension Fund and conduct other business, and he claimed that they were forced to manage transactions in such a way as to limit their exposure to seizure.

14. (C) Fayyad said that the combination of judgments in the U.S. and enforcement action in Israel posed "an existential threat" to the PA. "This is not an exaggeration," he said, "because in Israel we are not talking just about assets, we are talking about an ongoing cash flow and the source of our revenue." Fayyad said that Israel has cooperated closely with the PA's Israeli counsel in responding to the cases in Israel, and understood too that successful enforcement action could "end the whole project." He claimed that Israel has the ability to do more and should be able to, noting specific legal action Israel had taken in similar cases in the past. Referring to a possible GOI action to wall off PA assets from attachment, Fayyad commented, "As I think about our bilateral relations, this is the biggest economic favor they (the GOI) can do for us." Fayyad said that he would engage the GOI "with more vigor" on this issue in coming weeks. "Official Israel gets this," he said. He suggested that Israeli action to protect PA assets "might have a chilling impact" on current - and potential future - plaintiffs in the U.S.

15. (C) Fayyad reiterated his appeal for the Department of State to file a Statement of Interest (SOI) in the U.S. cases in order to get two default judgments vacated. "Because of our own failure," he said, "we have been deprived of due process." He admitted that an SOI did not guarantee that the judgments would be vacated, but "it's the most you can do." Fayyad said that the failure to issue a SOI would work against the legal strategy that the PA, at USG suggestion, has belatedly adopted. The courts, he suggested, might

JERUSALEM 00001795 002 OF 002

interpret the absence of a USG statement as evidence that the Administration "isn't really interested." Department lawyers cautioned that while we understood the symbolic effect a SOI might have in terms of support for the PA, U.S. courts do not always agree with the USG position in SOIs. They advised that the Department was therefore looking at various options that would result in the best possible outcome, but was not foreclosing the possibility of appropriate SOIs.

16. (C) Fayyad's main concern is not the threat to assets in the U.S. controlled by the Palestine Monetary Authority (PMA), the PIF and the pension fund, calling them "relatively small and finite." "If I were to know that parting with that money would end it," he said, "I would not be as worried." There was, however, "huge operational risk" to the PMA and the Palestinian banking sector. Judgments in the U.S., he said, greatly limit the capacity of the banking sector to function. Fayyad was also deeply concerned about the contested ownership of the PIF. He said it would be "absurd" to dismiss the possibility that the plaintiffs claiming ownership could (and might want to) do significant long-term damage to the PA by entering into long-term contractual arrangements that fundamentally undermine the Palestinian economy. Fayyad said that misuse of the PIF "could be the instrument of our undoing." Fayyad did not think his lawyers would be successful in their attempt to protect PIF assets by arguing that it is distinct from the PA. "Just look at the PIF charter," he said.

17. (C) Fayyad also noted that he had been approached to settle on one of the cases, "but it was at too high a cost and didn't make sense." He said that he had settled one case in Israel where, as part of the settlement, the PA was immunized from further suits of a similar nature (related to insurance claims for stolen vehicles). Fayyad said there was a "moral hazard" in settling, but if it would significantly reduce the cost to the PA and "stop the hemorrhaging" he would consider it. "But large settlements will work against us, and I would not authorize it - ever."

